

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION

JUNNE KOH

PLAINTIFF

V.

CAUSE ACTION NO.5:17-CV-50-DCB-MTP

WARDEN STONE, et al.

DEFENDANTS

ORDER

Before the Court is the defendants' Motion to Dismiss or in the alternative for Summary Judgment [Doc. 30] and Magistrate Judge Michael T. Parker's Report and Recommendation, to which the plaintiff, Junne Koh ("Koh") did not object.

The plaintiff filed this lawsuit, alleging that the prison breached its duty to provide timely healthcare. The plaintiff sued Kimberly McAndrews ("McAndrews") and Neely Greene ("Greene"), health service administrators, because they denied his administrative grievances. The plaintiff also sued Warden Stone in his official capacity for the alleged delay in providing medical care. The plaintiff seeks monetary damages and injunctive relief.

Magistrate Judge Parker recommends that the defendants' Motion [Doc. 20] be granted and all defendants be dismissed with prejudice. For the reasons that follow, this Court adopts the findings and conclusions of the Report and Recommendation [Doc. 33] as its own.

The plaintiff sued the defendants McAndrews because they work as health services administrators and denied grievance appeals that the plaintiff filed through the prison's Administrative Remedy Program. The plaintiff's only remaining claim is negligence in providing timely medical care. See Doc. 33, pp. 2-3. Magistrate Judge Parker finds that the plaintiff bears the burden of proving evidence sufficient to establish the existence of a duty, breach, proximate causation, and damages in his negligence claim. Doc. 33, p. 4. The plaintiff claimed that he was not provided a CT scan for three years, from 2014 to 2017. The defendants put on evidence sufficient to rebut this claim, and the plaintiff did not respond. The defendants also submitted evidence that the plaintiff received regular medical attention.

Magistrate Judge Parker finds that the defendants put on evidence sufficient to meet the summary judgment standard. Doc. 33, pp. 2, 5. The plaintiff has not come forth with evidence to demonstrate that the defendants breached any duty to provide timely medical treatment or are responsible for any damages proximately caused by any delay. Therefore, Magistrate Judge Parker recommends the defendants' Motion [Doc. 20] be granted and all defendants be dismissed with prejudice. This Court agrees.

Accordingly,

IT IS ORDERED that Magistrate Judge Michael T. Parker's Report and Recommendation [Doc. 33] is ADOPTED as the findings and conclusions of this Court;

IT IS FURTHER ORDERED that the defendants' Motion to Dismiss or alternatively for Summary Judgment [Doc. 30] is granted, and all defendants are DISMISSED WITH PREJUDICE.

SO ORDERED this the 14th day of March, 2019.

/s/ David Bramlette  
UNITED STATES DISTRICT JUDGE